

HENDRICKS SUPERIOR COURT I  
Danville, Indiana

Estate Number: 32DOI-9011-ES-133

ESTATE OF PHILIP LEE                     )  
PLOUGHE, deceased                     )

ORDER ON PERSONAL REPRESENTATIVE'S  
PETITION TO QUIET TITLE

Come now Bonnie Cooksey, Personal Representative, and by counsel, Kurt F. Pantzer II, and Kurt F. Pantzer III, and David E. Kenninger on behalf of Hinkle Keck & Webb and Robert Wilson, d/b/a Gas House U.S.A. and all other similarly situated creditors of the Estate of Philip Lee Ploughe for purposes of hearing on the Personal Representative's Motion to Quiet Title and objections thereto.

By stipulation of the parties, the legal issue before the Court is as follows:

"Does a Judgment duly recorded in the County Clerk's Office automatically become a specific lien as to real estate owned by the Judgment debtor and does that specific lien take priority under I.C. §29-1-14-9 over costs and expenses of administration?"

The Court, having reviewed the various responses of the Judgment creditors, and having reviewed the Trial Brief filed by the Personal Representative, and after hearing arguments from both counsel, now finds as follows:

1. A final Judgment for recovery of money or costs obtained in any Court of record of general jurisdiction in the State of Indiana becomes a lien upon the real

HINKLE  
KECK & GUNDLACH  
Lawyers  
35 WEST MARION STREET  
DANVILLE, INDIANA  
46122

TELEPHONE  
(317) 745-5441  
FAX  
(317) 745-0490

estate of said Judgment debtor in the county where the Judgment is entered and indexed in the County Clerk's Office. I.C. §34-1-45-2.

2. A Judgement, upon docketing and indexing, immediately becomes a lien upon any real property located within that county, and such lien is a specific lien which will take priority over costs and expenses of administration because it is a secured claim as to that real property. I.C. §29-1-14-6 and I.C. §29-1-14-9.

3. The case of Dietz v. McGowan 403 N.2nd 1160 (Ind. App. 1980), cited by the Personal Representative, is distinguished in that the Dietz case involved the creation of a lien on personal property and did not involve the issue of liens on real property. The Dietz case held that a lien on personal property does not attach until proceedings supplemental have been commenced and there has been service of process and notice on the Judgment debtor. In this case, Dietz is not controlling because the issue before the Court involves real property. No proceedings supplemental to execution are necessary for a Judgment creditor to acquire a specific lien on real estate pursuant to I.C. §34-1-45-2.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that all Judgment creditors in this case who possess valid final Judgements duly docketed in the Hendricks County Clerk's office, prior to the death of the decedent, shall be considered secured claims as to the decedent's real estate in Hendricks County, Indiana and such secured claims shall have priority over costs and expenses of administration and reasonable funeral expenses pursuant to I.C. §29-1-14-9.

HINKLE  
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Lawyers  
35 WEST MARION STREET  
DANVILLE, INDIANA  
46122

TELEPHONE  
(317) 745-5441  
FAX  
(317) 745-0490

So Ordered this 5 day of May, 1994.

Mary Lee Comer

Mary Lee Comer, Judge  
Hendricks Superior Court I

Distribution:

Kurt F. Pantzer III  
FOLEY & POOL  
Suite 301, 342 Massachusetts Avenue  
Indianapolis IN 46204

Town of Brownsburg, Indiana  
c/o Jeannette M. Brickler  
80 East Vermont Street  
Brownsburg IN 46112

Town of Brownsburg  
c/o Seth B. Lewis  
LEWIS & BLAKE  
97 W. Main Street  
Danville IN 46122

The First National Bank and Trust Co.  
101 West Main Street  
Plainfield IN 46168

Bonnie Jo Cooksey  
5551 North Raceway Road  
Indianapolis IN 46234

Bank One, Plainfield NA  
c/o Gregory W. Black  
106 North Washington Street  
P.O. Box 371  
Danville IN 46122

Pamela R. Baker - Ploughe  
613 West Main Street  
Plainfield IN 46168

HINKLE  
KECK & GUNDLACH  
Lawyers  
35 WEST MARION STREET  
DANVILLE, INDIANA  
46122

TELEPHONE  
(317) 745-5441  
FAX  
(317) 745-0490

Timothy R. Johnson  
Site Investigation Section  
Office of Environmental Response  
Indianapolis Dept. of Environmental Mgmt.  
Indiana Government Center South - 13th Floor  
P.O. Box 6015  
Indianapolis IN 46206-6015

George and Bobbie Miller  
c/o J. C. Buehler  
8250 Haverstick Road, #295  
Indianapolis IN 46240-2402

P. Todd Ploughe  
c/o Sandra Kay Ploughe  
1075 East Main Street  
Brownsburg IN 46112

Hendricks County Treasurer  
Courthouse  
Danville IN 46122

Cynthia J. Kinney  
72 N. Belleview Place  
Indianapolis IN 46232

Matthews Mortuary  
c/o Ken A. Elmendorf  
ELMENDORF MEYER & FREESE  
17 North Grant Street  
Brownsburg IN 46112

Debra S. Harper, Revenue Officer  
Internal Revenue Service  
2601 Fortune Circle East, Suite 301A  
Indianapolis IN 46241

David E. Kenninger  
HINKLE KECK & GUNDLACH  
35 West Marion Street  
Danville IN 46122

HINKLE  
KECK & GUNDLACH  
Lawyers  
35 WEST MARION STREET  
DANVILLE, INDIANA  
46122

TELEPHONE  
(317) 745-5441  
FAX  
(317) 745-0490